

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Papan Analyst: Kristina E. North Bill Number: AB 402

Related Bills: None Telephone: 845-6978 Introduced Date: February 20, 2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Lupus Foundation of America, California Chapters Voluntary Contribution Fund

SUMMARY

This bill would allow individuals to make voluntary contributions to the Lupus Foundation of America, California Chapters Fund, on their income tax returns.

PURPOSE OF THE BILL

The author's office has indicated that the purpose of the bill is to establish an additional source of funding for lupus education, awareness, and research.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2002, and would apply to returns filed for taxable years beginning with the first taxable year another voluntary contribution designation is removed from the tax return and a voluntary contribution designation for this fund is added, or January 1, 2003, whichever occurs first. The designation for this fund would remain on the tax return until January 1 of the fifth year following its first appearance on the tax return, or January 1, 2008, whichever occurs first. Thus, the designation would remain on the return for a total of five years.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a checkoff to direct \$3 of a taxpayer's tax liability to the Presidential Election Fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 13 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the State Controller's actual costs to administer the fund.

Board Position:

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| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Alan Hunter for GHG

03/23/01

Except for the California Senior's Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds except for the California Senior's Special Fund must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

THIS BILL

This bill would establish the Lupus Foundation of America, California Chapters Fund, and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. The contributions may be made individually by each signatory on a joint return. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund designation is removed or January 1, 2003, whichever occurs first. The tax form instructions also must specify that contributions may be made in amounts of \$1 or more and that the contribution must be used for lupus education, awareness, and research.

This bill would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date. If in any calendar year, after the first taxable year the fund appears on the tax return, the FTB estimates by September 1 that contributions will be less than \$250,000, the article added by this bill would be repealed effective January 1 of that calendar year. To make the determination, FTB would use the actual amounts contributed and an estimate of the remaining year's contributions. Beginning with the second calendar year the fund is on the tax return, or 2005, whichever occurs first, the FTB must adjust the minimum contribution amount for inflation.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's tax liability, then the taxpayer's return must be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the Lupus Foundation of America, California Chapters Fund.

This bill would require that all money transferred to the Lupus Foundation of America, California Chapters Fund, upon appropriation by the Legislature, be allocated first to the FTB and the Controller for reimbursement of costs incurred performing their duties under this article, and then to the Department of Health Services for an equal basis allocation to all California-based operating chapters of the Lupus Foundation of America for education and awareness.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

PROGRAM BACKGROUND

Thirteen voluntary contribution funds appeared on the 2000 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.3 million in 1999/2000. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

OTHER STATES' INFORMATION

Florida allows five voluntary contribution funds on the application form for a driver's license. The contributions may be made in whole dollar amounts as specified for each fund. The funds must pay a \$10,000 application fee to defray the Department of Motor Vehicles costs. A fund is discontinued if less than \$25,000 is contributed by the end of the fifth year or less than \$25,000 is contributed during any subsequent 5-year period.

Illinois allows seven voluntary contribution funds on the personal income tax forms. A fund is discontinued if, by October 1st of any year, the total contributions to the fund are less than \$100,000.

Massachusetts allows four voluntary contribution funds on the personal income tax form.

New York allows five voluntary contribution funds on the personal income tax form. The contributions may be made in whole dollar amounts.

These states were chosen for their similarities to California state tax law.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Tax Revenue Estimate

Based on the information and assumptions discussed below, the potential revenue losses would be insignificant: \$15,000 or less annually beginning with fiscal year 2002/2003 as a result of itemized deductions for the contributions.

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Tax Revenue Discussion

It is assumed that this fund would be added to the 2001 state income tax return filed in 2002.

According to departmental data, nearly 480,000 contributions totaling more than \$3 million (an average of approximately \$7 per contribution) were made to 14 designated funds in fiscal year 1999/2000.

Assuming 1) the contributed amounts are taken as itemized charitable deductions; 2) a 2% annual growth in contributions; 3) an average marginal tax rate of 6%; and 4) no reductions for other contributions normally reported, the annual revenue loss would be on the order of \$15,000.

POLICY CONCERNS

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately impair tax collection and reduce administrative efficiency.

If this bill becomes law in 2001 and another fund is removed from the tax return the same year, this fund would appear on the taxable year 2001 return, filed in calendar year 2002. The FTB would be required to estimate by September 1, 2002, whether the contributions met the \$250,000 requirement. Theoretically, the sponsor would have only a few months in early 2002 to advertise the fund and encourage contributions to ensure that the fund would appear on the 2002 return. If this is not the author's intent, the author may wish to amend the bill accordingly.

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